

#### § 20.307

(1) With or without motion or notice, order a time period extended if request for extension is made before the end of the original time period, or as extended by a previous order; or

(2) Upon motion made after the expiration of the time period, permit the act to be done where the failure to act was excusable.

#### § 20.307 Complaint.

(a) The complaint must set forth—

(1) The statute or regulation allegedly violated;

(2) The pertinent facts involved; and

(3) The amount of the requested class II civil penalty.

(b) The Coast Guard Representative should request the place of hearing when filing the complaint.

(c) The complaint must conform with the filing and service requirements of this subpart.

#### § 20.308 Answer.

(a) The respondent shall file a written answer to the complaint not later than 20 days after service of the complaint. The answer must conform with the filing and service requirements of this subpart.

(b) The person filing an answer shall indicate whether he or she agrees with the place of hearing proposed in the complaint and, if necessary, shall request another location for the hearing when filing the answer.

(c) An answer must state whether or not the respondent intends to contest any of the violations set forth in the complaint. The answer must include any affirmative defenses that the respondent intends to assert at the hearing.

(1) The answer must admit or deny each numbered paragraph of the complaint. A statement that the person is without sufficient knowledge or information to admit or deny will have the effect of a denial. Except as provided in this paragraph, any allegation in the complaint that is not specifically denied in the answer is deemed admitted.

(2) A general denial of the complaint is deemed a failure to file an answer.

(d) A respondent's failure to file an answer without good cause will be deemed an admission of the truth of

#### 33 CFR Ch. I (7–1–98 Edition)

each allegation contained in the complaint.

#### § 20.309 Motions.

(a) A person applying for an order or ruling not specifically provided in this subpart shall do so by motion. All written motions must comply with the form, filing, and service requirements of this subpart. All motions must state clearly and concisely—

(1) The purpose of and the relief sought by the motion;

(2) The statutory or regulatory authority relied upon; and

(3) The facts alleged to constitute the grounds requiring the relief requested.

(b) A proposed order may be attached to a motion.

(c) Motions must be in writing, except that a motion made at a hearing will be sufficient if stated orally upon the record unless the Administrative Law Judge directs that it be reduced to writing.

(d) Except as otherwise provided in this part, a party must file any response to a motion within 10 days following service of a written motion. When a motion is made during a hearing, an oral response may be made at the hearing or in writing, within a reasonable time, as determined by the Administrative Law Judge.

(e) Unless otherwise ordered by the Administrative Law Judge, the filing of a motion does not stay a proceeding.

(f) Rulings will be made on the record either orally or in writing. The Administrative Law Judge may summarily deny dilatory, repetitive, or frivolous motions.

#### § 20.310 Default by respondent.

(a) A respondent may be found to be in default upon failure to file a timely answer to the complaint or, after motion, upon failure to appear at a conference or hearing without good cause being shown.

(b) Any motion for default must conform to the rules of form, service, and filing of this subpart and must include a proposed decision. The respondent alleged to be in default has 20 days from service to file a reply to the motion.